

White House Conference on Aging: Solutions Forum

Planning Along the Lifespan: Strategies to Address Financial Elder Abuse

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April 7, 2005, Los Angeles California

“Old people lie to you and so when you work with them always let them think they’re winning. That’s what they want to do. They want to win. The best way to get them to trust you and to get them to let you control their money is to shake them up....scare them, get them to rely on you for every decision. I use big time fear. I make these people think that they have to call me for everything. It’s an acting job. You have to be good enough to convince them that you are concerned.”

This advice was part of a training session of a company that sold about three hundred million dollars worth of trusts and annuities in California by targeting people aged 50 and over. Once they were shut down by the State Attorney General’ Office, many of their 200 trained agents went out and started their own agencies. These agents and others are currently out there selling independence, legacy, and a shrewd investment but that’s not what people end up with. Victims can lose their life savings. Some end up having to rely on family members and/or public benefits. Not only are they robbed of their assets, they also lose trust, self confidence, and independence.

The perpetrators use a variety of tools including:

- Impressive titles and credentials. They refer to themselves as financial planners and show their credentials of Certified Trust Advisor embossed with a gold seal on a diploma.
- They use a canned sales pitch that goes like this: “Get to the kitchen table and tell them to put on the coffee because I’m not going anywhere until we’re done. Hang on like a pit bull until you get what you want.”
- They isolate the older person and vilify other legitimate financial contacts such as bankers, stockbrokers, and even family members.
- Training that included this outcome: “Whatever money they’ve got is mine. When I’m done with them they will be throwing their money at

me.”

My focus this morning, is not on retirement planning and income per se but on an insidious and rampant problem that robs people of their retirement income—financial abuse. Financial abuse has serious implications for economic well-being and quality of life of current and future elders. Financial abuse includes a range of transgressions from taking small amounts of cash to robbing individuals of their total life savings.

Victims include people with different types of vulnerability including:

- 1) physically dependent elders who become financial prisoners of their caregivers,
- 2) older people with a dementing illness who lack the cognitive agility to recognize that they are being taken advantage of,
- 3) healthy older adults who are taken in by convincing con artists,
- 4) people who have never developed financial management skills—and are in essence financially illiterate. This category includes recent widows whose spouse managed the finances.

The context for this growing problem is the triple threat of ageism, a winner take all mentality, and low risk for perpetrators

Ageism, a term coined by Robert Butler over 30 years ago can take the form of taking a short-cut to an inheritance because, “It is mine anyway. She doesn’t need it. There are public benefits to help her.” Older people may be considered greedy geezers, or powerless, isolated, lonely, and easy to trick

In a winner take all culture respect and admiration come from manifest wealth...the nicest car, and the biggest home—in the best neighborhood. Those are the perks that the training team used to sell elder abuse to the agents. The agents competed for a new Mercedes, a diamond Rolex and expensive trips. They had team contests in teams named the “megabucks,” and the “money movers” Here is what one of the trainers said “When people are making the kind of money and having the success we have, you get your bills paid. You get the IRS off your back. We go to Banff and Park City Utah and Maui and Jamaica.

In term of risk, financial abuse is difficult to detect. Typically, it is a pattern of behavior over time that results in a perpetrator convincing an older person to sign a contract that he doesn’t want to sign or to gift assets, or make the person a joint tenant on an account. Sometimes the older person is not aware of what he has signed. Sometimes he simply wears down and acquiesces.

One of my colleagues with the ABA said that it is like boiling a frog. If you throw the frog in a pan of hot water, it will quickly jump out. But if you put it in pleasant tepid water and slowly turn the heat up, the frog will not notice the change until it is too late.

The perpetrators defense is always that the older person did it willingly. If the older person has the cognitive capacity to testify then the argument is why did he sign the

contract or gift the money if he knew what he was doing. If the older person lacks capacity then they do not make a very convincing witness.

Who are these Perpetrators? They include career criminals, opportunities who stumble onto an opening and take it. Sometimes they are people whose greed, or need, or sense of entitlement overcome their values and sense of propriety. They can be a close friend or family member, a new friend, a caregiver, or a formal organization or corporation.

Corporate Scams include:

- Financial “planners” as we’ve seen and
- Sweepstakes
- Real Estate
- Home Improvement Specialists
- Telemarketing (The Department of Justice estimated losses at about \$40 billion annually)

Where are we in developing solutions?

Elder abuse has been formally recognized for the last three decades. Although research has focused primarily on violence (physical and emotional abuse), awareness and concern about financial abuse is growing.

What do we have in place?

- Each state has elder abuse reporting laws and an APS program and that reviews reports of abuse, investigates, and to the extent possible provides remedies
- “Do not call lists” and state legislation to curb sweepstakes scams seem to have had a positive effect on reducing abuse.
- At the national level, the Administration on Aging recently completed an excellent overview of financial abuse
- A National Abuse Incidence Study, conducted in the late 1990s, helped provide information on the extent of the problem.
- The National Institute on Aging is making funding availability for Exploratory/Developmental awards for systematic scientific study of Elder Mistreatment

What else do we need to do?

We need to support and build on these efforts by focusing on two major areas:

- 1) Better understanding of the problem,
- 2) Effective remedies that protect older adults without eroding civil liberties

To better understand the problem, we need to development methods to determine how prevalent abuse is and approaches to identify the risk factors that make people vulnerable. Currently it is difficult to know how extensive the problem is because much abuse is hidden. It goes undetected because perpetrators isolate older victims who may in turn be reluctant to shed light on what is going on. In addition, financial abuse is difficult to investigate because of legitimate privacy and autonomy issues.

Effective remedies include both macro-level and micro-level approaches. Examples are:

- Building on successful multidisciplinary teams such as the Fiduciary Specialist Team in Los Angeles and the Vulnerable Adult Specialist Team (VAST)
- Universal screening for indicators of abuse and risk for abuse by attorneys who serve older adults
- Improved oversight of fiduciaries (guardians, representative payees)
- Develop safeguards for Powers of Attorney arrangements
- More available daily money management programs perhaps through the aging network; these might include both education and support to address the various types of need
- Continue current work to evaluate, disseminate, and help programs translate best practices. An overview of best practices was developed by the Administration on Aging (Brandt Chvirko) in 2003 in collaboration with RTI International (Rabiner, O'Keefe, and Brown).
- Efforts to develop interventions to prevent abuse including educating consumers about how to avoid scams
- Develop and test interventions with perpetrators that prevent further abuse
- Where necessary ensure resources to prosecute abuse so that it is no longer a low risk crime
- Educate judges about abuse
- Finally because financial abuse often crosses state lines, develop national oversight and standards in much the same way that nursing home regulations include both federal and state participation.